



## The North Carolina State Bar

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Oct. 18, 2011

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To: Ethics Committee Chairman

From: Bruno E. DeMolli, Staff Auditor

Subject: Third Quarter Reviews

#### Random Audit of the 28th and 30th Judicial Districts

1. The 28<sup>th</sup> Judicial District consisting of Buncombe County and the 30th Judicial District consisting of Clay, Cherokee, Graham, Haywood, Jackson, Macon and Swain counties were randomly selected for review.
2. The 28th District has a listing of 640 lawyers, 44 were randomly selected for review. These reviews collectively involved 70 attorneys. The district was previously audited in 1986, 1990, 1998, 2001 and 2005.
3. The 30th District has a listing of 234 lawyers, 16 were randomly selected for review. These reviews collectively involved 19 attorneys. The district was previously audited in 1992, 1995, 1998, 2002 and 2007.
4. Lawyers failing to reconcile the trust account quarterly. (55%)
5. Be alert: Scammers are targeting North Carolina lawyers.
  1. Communications from an out of state source regarding legal work that results in payment by certified funds, for which the lawyer receives a percentage and wires excess funds to a specified location, usually outside the United States, should be viewed with suspicion. Certified checks presented by scammers are of such good quality that they pass the scrutiny of some banks. Scammers do their homework, but there may always be a flaw in their scenario. For example, a scammer provided a certified check drawn on the Mellon Bank of New York, but spelled it Nellon. This along with other discrepancies caused the scheme to fall apart. Review questionable communications carefully. Watch for misspelled words, poor grammar or phrases used out of context.
  2. Another scam occurred last month when a lawyer was contacted by a realtor with whom he had done closings in the past. The buyers, whom the realtor never met, were interested in purchasing a large tract of land in the mountains of North Carolina they discovered on Google. The contract was negotiated over the internet and a certified check for almost \$300,000.00 was received by the lawyer via regular mail. Of course the check was for more than required and the lawyer was requested to wire the surplus funds to the buyers in Canada. The lawyer felt circumstance surrounding the sale were unusual and decided to call the bank the check was drawn on. It was learned the number of the "cost center" on the check did not properly identify the branch it was drawn on and therefore was considered a forgery, matter closed.

3. A precaution in safeguarding all funds in the trust account is to ensure a check has cleared, that is funds have been collected, before disbursing. If you feel you're going to error, do so in favor of the trust account.
4. Please note the attached article concerning the use of a smart phone in a scam during a real estate closing.
5. It is requested any attempted or perpetrated scam be reported to Joseph Commisso, Director of Investigations, North Carolina State Bar at 919-828-4620; [jcommisso@ncbar.gov](mailto:jcommisso@ncbar.gov).

6. Lectures:

Mecklenburg County Bar  
NC Advocates for Justice  
9/30/11 Charlotte

NC Bar Assoc.  
NC Advocates for Justice  
10/15/11 Asheville

7. Audit Selections

Judicial Districts randomly selected for audit the fourth quarter of 2011 are District 22B, consisting of Davidson & Davie counties and District 29B, consisting of Henderson, Polk and Transylvania counties.

BED/dw

cc: Alice Neese Mine  
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